

U.S. Department of Justice
United States Attorney
Western District of New York

Further inquiries: (716)843-5814

138 Delaware Avenue
Buffalo, New York 14202

PRESS RELEASE

September 8, 2005

RE: UNITED STATES v. SHAWNA FISH
UNITED STATES v. CHERYL WAGNER
UNITED STATES v. ANN CAIN; DAVID CAIN, SR.;
and CHERYL WAGNER
UNITED STATES v. JOSEPH HEITZENRATER

Acting United States Attorney Kathleen M. Mehlretter announced today that yesterday the grand jury returned four (4) indictments charging five (5) individuals as follows:

In the first indictment Shawna Fish, 30, of Holley, New York, was charged with a single count of perjury, in violation of Section 1623 of Title 18 of the United States Code, which carries a maximum sentence of five (5) years in prison and a \$250,000 fine. Ms. Fish was accused of falsely denying that she overheard a conversation between a Niagara County Jail inmate and a second individual where the inmate directed the second individual to lie to the Federal Grand Jury.

In the second indictment, Cheryl Wagner, 38, of Middleport, New York, was charged with two counts of perjury for allegedly falsely telling the grand jury that the injuries she suffered on April 17, 2003 were the result of an accident when the injuries resulted from an assault on her and then allegedly falsely telling the grand jury that she had not discussed her testimony with a Niagara County inmate before she appeared to testify and then falsely telling the grand jury that this same inmate had not coached her on how to lie to the grand jury.

In the third indictment, Wagner, and Ann Cain, 52, and David Cain, Sr., 57, both of Barker, New York, were charged with tampering with witnesses by telling the witnesses not to say anything to the grand jury and to investigators in violation of Section 1512(b)(1), (b)(2)(D) and (b)(3). Each count of the indictment carries a maximum sentence of ten (10) years in prison and a \$250,000 fine.

In the fourth indictment, Joseph Heitzenrater, 41, of Barker, New York, was charged with conspiring to tamper with physical evidence and tampering with physical evidence, in violation of Sections 1512(k) and 1512(c) of Title 18 of the United States Code. Each of these charges carries a maximum sentence of twenty (20) years in prison and \$250,000 fine. The indictment charges that Heitzenrater and others moved tool boxes, tools, and hydraulic controls to keep them from falling into the hands of the police.

The indictments grew out of an ongoing investigation by the Bureau of Alcohol, Tobacco, Firearms and Explosives, under the direction of Resident Agent in Charge David

DeJoe, the Niagara County Sheriffs Department, under the direction of Sheriff Thomas Beilen, the Orleans County Sheriffs Department, under the direction of Sheriff Scott D. Hess, and the Federal Bureau of Investigation under the direction of Special Agent in Charge Peter Ahearn. Assistance to the investigation is also being provided by the Niagara and Orleans County District Attorney's Officers under District Attorneys Matthew J. Murphy III and Joseph V. Cardone, respectively.

These cases are being presented to the grand jury by Assistant United States Attorney Anthony M. Bruce, who will try them.

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